

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JOSPEH GARCIA,	)	
	)	
Plaintiff,	)	08 C 4081
	)	
vs.	)	Honorable Judge
	)	Joan Gottschall
SHERIFF OF COOK COUNTY, and	)	
COOK COUNTY, ILLINOIS	)	Magistrate Judge Valdez
	)	
Defendants.	)	

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

Defendant SHERIFF OF COOK COUNTY, through his attorney, RICHARD A. DEVINE, State's Attorney of Cook County, by his Assistant State's Attorney, Jack G. Verges, answers Plaintiff's complaint as follows:

**COMPLAINT**

Plaintiff, by counsel, alleges as follows:

1. This is a civil action arising under 42 U.S.C. §1983. The jurisdiction of this Court is conferred by 28 U.S.C. §1343.

ANSWER: Defendant admits the allegations contained in paragraph one.

2. Plaintiff Joseph Garcia is a resident of the Northern District of Illinois.

ANSWER: Defendant admits the allegations contained in paragraph two.

3. Defendants are the Sheriff of Cook County and Cook County, Illinois. The Sheriff is sued in his official capacity only.

ANSWER: Defendant admits the allegations contained in paragraph three.

4. On or about April 30 2006, while a pre-trial detainee in the custody of defendant Sheriff at the Cook County Jail, plaintiff fell and suffered serious personal injuries.

ANSWER: Defendant denies the allegations contained in paragraph four.

5. Plaintiff fell as a result of the deliberate indifference of defendant Sheriff to unreasonably dangerous stairs at the jail.

ANSWER: Defendant admits the allegations contained in paragraph five.

6. Immediately after incurring the above referred injury, plaintiff was taken to a hospital emergency room, where plaintiff was diagnosed with multiple fractures of an ankle.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph six.

7. Thereafter, a physician prescribed crutches for plaintiff.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph seven.

8. At all times relevant, there was in force and effect an official policy of defendant Sheriff which authorized correctional officers to disregard a physician's prescription that a prisoner receive crutches.

ANSWER: Defendant admits the allegations contained in paragraph eight.

9. As a result of the above referred policy:

- a. Plaintiff was not permitted to use crutches following his return to the general population,
- b. Plaintiff was required to hop up and down stairs, and
- c. Plaintiff incurred additional injuries to his ankle, requiring surgery and the insertion of mechanical devices into his ankle.

ANSWER:     a.       Defendant denies the allegations contained in paragraph nine(a).  
                  b.       Defendant denies the allegations contained in paragraph nine(b).  
                  c.       Defendant denies the allegations contained in paragraph nine(c).

10. Plaintiff remained in a hospital for about two following his ankle surgery.

ANSWER:       Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph ten.

11. At all times relevant, there was in force and effect an official policy of defendant Sheriff which required the shackling of prisoners who were receiving medical treatment outside of the Cook County Jail.

ANSWER:       Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph eleven.

12. The above described policy was applied to plaintiff, who was shackled to his hospital bed following his ankle surgery.

ANSWER:       Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twelve.

13. Plaintiff was thereafter returned to the jail, and received a prescription for crutches, physical therapy, and high top gym shoes.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirteen.

14. As a result of official policies of defendant Sheriff, plaintiff did not receive the above referred prescribed items.

ANSWER: Defendant denies the allegations contained in paragraph fourteen.

15. As a result of the foregoing, plaintiff suffered physical injury and underwent great pain and suffering.

ANSWER: Defendant denies the allegations contained in paragraph fifteen.

16. Plaintiff demands trial by jury.

ANSWER: Defendant admits the allegations contained in paragraph sixteen.

### **AFFIRMATIVE DEFENSES**

Defendant COOK COUNTY SHERIFF THOMAS DART, by his attorney, RICHARD A. DEVINE, State's Attorney of Cook County, through his Assistant, JACK G. VERGES, in further response to the Plaintiff's complaint and in the alternative, affirmatively states as follows:

**FIRST AFFIRMATIVE DEFENSE:** Defendant THOMAS DART did not violate any of Plaintiff's clearly established constitutional rights, and defendant is therefore entitled to qualified immunity from plaintiff's claims.

**SECOND AFFIRMATIVE DEFENSE:** Plaintiff's injuries, if any, were caused by his own actions.

**THIRD AFFIRMATIVE DEFENSE:** Plaintiff failed to exhaust all Administrative remedies pursuant to 42 U.S.C. § 1997(e).

**JURY DEMAND**

Defendant respectfully requests a trial by jury.

WHEREFORE, based on the foregoing, Defendant denies that Plaintiff is entitled to any damages or attorney's fees. Defendant prays that this honorable Court grant judgment in his favor and against Plaintiff on all aspects of his complaint and further requests that this Honorable Court grant Defendant's fees, costs, and such other relief that this Court deems just and appropriate.

Respectfully submitted,

RICHARD A. DEVINE  
State's Attorney of Cook County

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